

AGENDA ITEM

144 May 10 2013.

DATE: April 12, 2013

TO: Members, Planning, Program Development and Budget Committee
Members, Board of Trustees

FROM: Douglass Hull, Director
State Bar Mandatory Fee Arbitration Program

SUBJECT: Mandatory Fee Arbitration Program: Addition of Fees and Deadlines to the State Bar Rules, Appendix A: Schedule of Charges and Deadlines

EXECUTIVE SUMMARY

At the March 2013 meeting, the Board of Trustees adopted rules 3.500-3.566 of the State Bar Rules and repealed the old rules of procedure for fee arbitration and enforcement of awards by the State Bar, effective July 1, 2013. New rules 3.500-3.566 refer to fees and deadlines set forth in the Schedule of Charges and Deadlines, which is Appendix A of the State Bar Rules.

This agenda item requests that the Board add to the Schedule of Charges and Deadlines the fees and deadlines of the Mandatory Fee Arbitration Program referenced in the new rules.

Board members with questions may contact Doug Hull at (415) 538-2015 or doug.hull@calbar.ca.gov.

BACKGROUND

On March 7, 2013, the Board adopted new State Bar rules 3.500-3.566 for the Mandatory Fee Arbitration Program and repealed the old rules of procedure and enforcement by the State Bar, effective July 1, 2013. The new rules refer a reader to the Schedule of Charges and Deadlines for fees and deadlines of the program. This complies with a core principle of the State Bar Rules, which is stated in rule 1.20(L) (Construction): "If a rule refers to the Schedule of Charges and Deadlines, the referenced date or amount is part of the rule." The schedule is a central location of the fees and deadlines of all State Bar programs.

This agenda item requests addition of existing fees and deadlines of the mandatory fee arbitration program to the schedule, as shown on the attachment to this agenda item. There is no change in the program's fees and deadlines. No public comment is needed.

ISSUE

Whether to add to the Schedule of Charges and Deadlines the existing fees and deadlines of the Mandatory Fee Arbitration Program, as shown on the attached schedule.

CONCLUSION

Having adopted new rules for the mandatory fee arbitration program on March 7, 2013, the Board of Trustees should now add to the Schedule of Charges and Deadlines the fees and deadlines of the Mandatory Fee Arbitration Program that are referenced in the newly adopted rules and that are shown in the attached schedule.

DISCUSSION

Listed below are the relevant parts of the newly revised rules that refer to fees and deadlines set forth in the Schedule of Charges and Deadlines. (One rule includes a footnote citation that is recited in the rule in brackets for readability):

1. Rule 3.532 (Disputes below threshold minimum) states:

If the amount in dispute is less than the minimum amount set forth in the Schedule of Charges and Deadlines, the party requesting arbitration...must ...submit a complete written statement...of the reasons for the dispute.

2. Rule 3.534 (Fees; refund) states:

(A) The party requesting arbitration must submit the filing fee set forth in the Schedule of Charges and Deadlines with the Request for Arbitration or when the State Bar accepts removal of jurisdiction...

(C) If arbitration is settled or dismissed before the Request for Arbitration is served, the entire filing fee is refunded. If the arbitration is settled or dismissed after the request has been served, the State Bar retains some or all of the fee as set forth in the Schedule of Charges and Deadlines.

3. Rule 3.536 (Arbitrators) states:

(B) Whether the State Bar assigns a sole arbitrator or a panel of three arbitrators is determined by the amount in dispute that is set forth in the Schedule of Charges and Deadlines. ...If the amount in dispute is less than the threshold

minimum amount set forth in the schedule, the presiding arbitrator decides the arbitration in accordance with these rules. [Footnote citation reads "Rule 3.532."]

(E) No compensation will be paid to arbitrators for services other than for formal hearings extending beyond four hours. Compensation is hourly at the rate set forth in the Schedule of Charges and Deadlines...

FISCAL / PERSONNEL IMPACT:

None known.

RULE AMENDMENTS:

Fee arbitration fees and deadlines shown on the attached schedule should be added to the Schedule of Charges and Deadlines, effective July 1, 2013.

BOARD BOOK IMPACT:

None known.

RECOMMENDATION

It is recommended that the Board add to the Schedule of Charges and Deadlines the fees and deadlines of the mandatory fee arbitration program, as shown on the attached schedule, effective July 1, 2013.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Planning, Program Development and Budget Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that no public comment being required, the Planning, Program Development and Budget Committee recommends that the Board add to the Schedule of Charges and Deadlines the fees and deadlines of the Mandatory Fee Arbitration Program referenced in rules 3.532, 3.534(A) and (C) and 3.536(B) and (E), as shown on the attached schedule, effective July 1, 2013.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Planning, Program Development and Budget Committee's recommendation, the following resolution would be in order:

RESOLVED, that no public comment being required and upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby adds to the Schedule of Charges and Deadlines the fees and deadlines of the mandatory fee arbitration program referenced in rules 3.532, 3.534(A) and (C) and 3.536(B) and (E), as shown on the attached schedule, effective July 1, 2013.

ATTACHMENT: schedule of fees and deadlines of the mandatory fee arbitration program, effective July 1, 2013